

on administrative appeals of initial denials of requests for notification, access, or amendment of records. SECNAV has delegated review authority to the Assistant Secretary of the Navy (Manpower & Reserve Affairs) (ASN(M&RA)), General Counsel of the DON (GC), and the Judge Advocate General of the Navy (JAG). Additionally, the Office of Personnel Management (OPM) is the review authority for civilian official personnel folders or records contained in any other OPM record.

(s) *“Routine use” disclosure.* A disclosure of a record made outside DOD for a purpose that is compatible with the purpose for which the record was collected and maintained by DOD. The “routine use” must have been included in the notice for the system of records published in the FEDERAL REGISTER.

(t) *Statistical record.* A record maintained only for statistical research, or reporting purposes, and not used in whole or in part in making any determination about a specific individual.

(u) *System manager.* An official who has overall responsibility for a system of records. He/she may serve at any level in DON. Systems managers are indicated in the published record systems notices. If more than one official is indicated as a system manager, initial responsibility resides with the manager at the appropriate level (*i.e.*, for local records, at the local activity).

(v) *System of records.* A group of records under the control of a DON activity from which information is retrieved by the individual’s name or by some identifying number, symbol, or other identifying particular assigned to the individual. System notices for all PA systems of records must be published in the FEDERAL REGISTER and are also available for viewing or downloading from the Navy’s Privacy Act Online Web site at <http://www.privacy.navy.mil>.

(w) *Web site.* A collection of information organized into a number of Web documents related to a common subject or set of subjects, including the “home page” and the linked subordinate information.

(x) *Working day.* All days excluding Saturday, Sunday, and legal holidays.

#### § 701.102 Online resources.

(a) *Navy PA online Web site* (<http://www.privacy.navy.mil>). This Web site supplements this subpart and subpart G. It provides a detailed understanding of the DON’s PA Program. It contains information on Navy and Marine Corps systems of records notices; Government-wide systems of records notices that can be used by DON personnel; and identifies Navy and Marine Corps exempt systems of records notices. It includes: PA policy documents; sample training materials; DOD “Blanket Routine Uses;” a checklist for conducting staff assistance visits; a copy of PA statute; guidance on how to establish, delete, alter, or amend PA systems of records notices; and provides updates on the DON’s PA Program.

(b) *DON Chief Information Officer (DON CIO) Web site* (<http://www.doncio.navy.mil>). This Web site provides detailed guidance on PIAs.

(c) *DOD’s PA Web site* (<http://www.defenselink.mil/privacy>). This Web site is an excellent resource that contains a listing of all DOD and its components’ PA systems of records notices, DOD PA directive and regulation, OMB Circulars, Defense Privacy Decision Memoranda, etc.

(d) *DON Freedom of Information Act (FOIA) Web site* (<http://www.foia.navy.mil>). This Web site discusses the interface between PA and FOIA and provides detailed guidance on the DON’s FOIA Program.

#### § 701.103 Applicability.

(a) *DON activities.* Applies to all DON activities that collect, maintain, or disseminate PPI. Applies to DON activities and to contractors, vendors, and other entities that develop, procure, or use Information Technology (IT) systems under contract to DOD/DON, to collect, maintain, or disseminate IIF from or about members of the public.

(b) *Combatant commands.* Applies to the U.S. Joint Forces Command (USJFCOM) and U.S. Pacific Command (USPACOM), except for U.S. Forces Korea as prescribed by DOD Directive 5100.3.

(c) *U.S. citizens and legally admitted aliens.* Applies to living citizens of the U.S. or aliens lawfully admitted for

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permanent legal residence. Requests for access to information in a PA system of records made by individuals who are not U.S. citizens or permanent residents will be processed under the provisions of the FOIA.

(d) *Federal contractors.* Applies to Federal contractors by contract or other legally binding action, whenever a DON contract provides for the operation, maintenance, or use of records contained in a PA system of records to accomplish a DON function.

(1) When a DON activity contracts for the operation or maintenance of a system of records or a portion of a system of records by a contractor, the record system or the portion of the record system affected are considered to be maintained by the DON activity and are subject to this subpart and subpart G of this part.

(2) The contractor and its employees are considered employees of the DON activity for purposes of the sanction provisions of the PA during the performance of the contract.

(3) The Defense Acquisition Regulatory (DAR) Council, which oversees the implementation of the Federal Acquisition Regulations (FAR) within DOD, is responsible for developing the specific policies and procedures for soliciting, awarding, and administering contracts that are subject to this subpart and 5 U.S.C. 552a.

(4) Consistent with the FAR regulations, contracts for the operation of a system of records shall identify specifically the record system and the work to be performed, and shall include in the solicitation and resulting contract the terms as prescribed by the FAR (see <http://www.privacy.navy.mil> (Admin Tools)).

(5) DON activities must furnish PA Program guidance to their personnel who solicit and award or administer Government contracts; inform prospective contractors of their responsibilities regarding the DON PA Program; and establish an internal system of contractor performance review to ensure compliance with the DON Privacy Program.

(6) This instruction does not apply to records of a contractor that are:

(i) Established and maintained solely to assist the contractor in making in-

ternal contractor management decisions, such as records maintained by the contractor for use in managing the contract;

(ii) Maintained as internal contractor employee records, even when used in conjunction with providing goods or services to a DON activity;

(iii) Maintained as training records by an educational organization contracted by a DON activity to provide training when the records of the contract students are similar to and commingled with training records of other students, such as admission forms, transcripts, and academic counseling and similar records;

(iv) Maintained by a consumer reporting agency to which records have been disclosed under 31 U.S.C. 3711; or

(7) DON activities shall establish contract surveillance programs to ensure contractors comply with the procedures established by the DAR Council.

(8) Disclosing records to a contractor for use in performing a contract let by a DON activity is considered a disclosure within DON (*i.e.*, based on an official need to know). The contractor is considered the agent of DON when receiving and maintaining the records for that activity.

(e) *Precedence.* In case of a conflict, this subpart and subpart G takes precedence over any DON directive that deals with the personal privacy and rights of individuals regarding their personal records, except for disclosure of PPI required by 5 U.S.C. 552 and implemented by Secretary of the Navy (SECNAVINST) 5720.42F.

### § 701.104 Responsibility and authority.

(a) *Delegation.* The Chief of Naval Operations (CNO) for administering and supervising the execution of 5 U.S.C. 552a, DOD Directive 5400.11 and DOD Regulation 5400.11-R. The Director, Navy Staff (DNS) will administer this program through the Head, DON PA/FOIA Policy Branch (DNS-36) who will serve as the Principal PA Program Manager for the DON.

(b) *CNO (DNS-36).* (1) Develops and implements DON policy on the provisions of the PA; serves as principal advisor on all DON PA matters; oversees the administration of the DON's PA